

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS
ORDER

Application 23883 Permit 17685 License

**ORDER APPROVING A NEW DEVELOPMENT SCHEDULE, ADDING
ENDANGERED OR THREATENED SPECIES TERM, AND AMENDING THE
PERMIT**

WHEREAS:

1. Permit 17685 was issued to Madame Helena de Pins on August 29, 1979 and subsequently assigned to the Estate of Helena de Pins.
2. A petition for an extension of time in which to develop the project and apply the water to the proposed use was been filed with the State Water Resources Control Board on December 12, 1997.
3. The permittee has proceeded with diligence and good cause has been shown for said extension of time.
4. Fish and wildlife species have been or may be listed under the federal Endangered Species Act and/or the California Endangered Species Act.

NOW, THEREFORE, IT IS ORDERED THAT:

1. A new development schedule is approved as follows:

Complete application of the water to the proposed use shall be made by December 31, 2008. (0000009)
2. The addition of Paragraph 17 to the permit to read as:

This permit does not authorize any act which results in the taking of a threaten or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a "taking" will result from any act authorized under this water right, the permittee shall obtain an incidental take permit prior to construction or operation. Permittee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this permit. (0000014)

OCT 20 1998

Dated:


Harry M. Schueller, Chief
Division of Water Rights

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

ORDER

APPLICATION 23883

PERMIT 17685

LICENSE _____

ORDER APPROVING A NEW DEVELOPMENT SCHEDULE AND AMENDING THE PERMIT

WHEREAS:

1. Permit 17685 was issued to Madame Helene de Pins on August 29, 1979 pursuant to Application 23883.
2. Permit 17685 was subsequently assigned to the Estate of Madame Helene de Pins.
3. A petition for an extension of time within which to develop the project and apply the water to the proposed use has been filed with the State Water Resources Control Board.
4. The permittee has proceeded with diligence and good cause has been shown for said extension of time.
5. Permit Condition 10 pertaining to the continuing authority of the Board should be updated to conform to Standard Permit Term 12 as contained in Section 780(a), Title 23 of the California Code of Regulations.

NOW, THEREFORE, IT IS ORDERED THAT:

1. Condition 7 of the permit be amended to read:

COMPLETE APPLICATION OF THE
WATER TO THE PROPOSED USE
SHALL BE MADE ON OR BEFORE

December 31, 1992 (0000009)

2. Condition 10 of the permit be amended to read:

Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

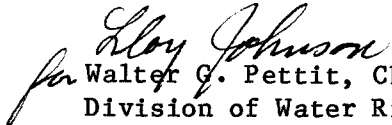
The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable

water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust.

(0000012)

Dated: OCTOBER 18 1988


for Walter G. Pettit, Chief
Division of Water Rights

STATE OF CALIFORNIA
THE RESOURCES AGENCY
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 17685

Application 23883 of Madame Helene De Pins over
c/o Sullivan, Roche & Johnson, Attorneys at Law, 220 Bush Street, San Francisco,
California 94104
filed on October 6, 1971, has been approved by the State Water Resources Control
Board SUBJECT TO VESTED RIGHTS and to the limitations and conditions of this Permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source:

Bear Canyon Creek

Tributary to:

Bale Slough thence

Napa River thence

San Pablo Bay

2. Location of point of diversion:	40-acre subdivision of public land survey or projection thereof	Section	Town- ship	Range	Base and Meridian
S40°W, 500 ft from NE Corner of Projected Section 17	NE¼ of NE¼	17	7N	5W	MD

County of Napa

3. Purpose of use:	4. Place of use:	Section	Town- ship	Range	Base and Meridian	Acres
Heat Control						
Frost Protection						
Irrigation	NW¼	16	7N	5W	MD	51.1
	NW¼ of SW¼	16	7N	5W	MD	2.0
	N½ of SE¼	17	7N	5W	MD	19.4
	SE¼ of NE¼	17	7N	5W	MD	22.5
					Total	95

The place of use is shown on map filed with the State Water Resources Control Board.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed (A) BY DIRECT DIVERSION: (1) 1.8 CUBIC FEET PER SECOND FROM MAY 1 TO MAY 15 OF EACH YEAR FOR IRRIGATION PURPOSES, (2) 1.8 CUBIC FEET PER SECOND FROM MARCH 15 TO MAY 15 OF EACH YEAR FOR FROST PROTECTION PURPOSES; (B) BY STORAGE 81.6 ACRE-Feet PER ANNUM TO BE COLLECTED FROM NOVEMBER 1 OF EACH YEAR TO MAY 15 OF THE SUCCEEDING YEAR. THE TOTAL AMOUNT OF WATER TO BE TAKEN FROM THE SOURCE FOR ALL USES SHALL NOT EXCEED 190 ACRE-Feet PER WATER YEAR OF OCTOBER 1 TO SEPTEMBER 30.

THIS PERMIT DOES NOT AUTHORIZE COLLECTION OF WATER TO STORAGE OUTSIDE OF THE SPECIFIED SEASON TO OFFSET EVAPORATION AND SEEPAGE LOSSES OR FOR ANY OTHER PURPOSE.

THE MAXIMUM RATE OF DIVERSION TO OFFSTREAM STORAGE SHALL NOT EXCEED 1.8 CUBIC FEET (000005) PER SECOND.

6. The amount authorized for appropriation may be reduced in the license if investigation warrants. (000006)

~~XX No additional construction work shall be permitted on the project until the project has been approved by the State Water Resources Control Board. XX~~

~~XX All construction work shall be completed on or before~~

7. ~~XX~~ Complete application of the water to the proposed use shall be made on or before DECEMBER 1, 1983. (000009)

8. ~~XX~~ Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until license is issued. (000010)

9. ~~XX~~ Permittee shall allow representatives of the State Water Resources Control Board and other parties, as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit. (000011)

10. ~~XX~~ Pursuant to California Water Code Sections 100 and 275, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to minimizing waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement such programs as (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation. (000012)

11. ~~XX~~ The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges. (000013)

12. THE STATE WATER RESOURCES CONTROL BOARD RESERVES JURISDICTION OVER THIS PERMIT TO IMPOSE ANY APPROPRIATE CONDITIONS AT SOME FUTURE DATE TO CONFORM THE PERMIT TO BOARD POLICY ON USE OF WATER FOR FROST PROTECTION. ACTION BY THE BOARD WILL BE TAKEN ONLY AFTER NOTICE TO INTERESTED PARTIES AND OPPORTUNITY FOR HEARING. (000020)

13. FOR THE PROTECTION OF FISH AND WILDLIFE, IN BEAR CANYON CREEK AND BALE SLOUGH, PERMITTEE SHALL DURING THE PERIOD:

- (A) FROM NOVEMBER 1 THROUGH NOVEMBER 30 BYPASS A MINIMUM OF 0.5 CUBIC FOOT PER SECOND;
- (B) FROM DECEMBER 1 THROUGH FEBRUARY 29 BYPASS A MINIMUM OF 10 CUBIC FEET PER SECOND;
- (C) FROM MARCH 1 THROUGH MAY 15 BYPASS A MINIMUM OF 2 CUBIC FEET PER SECOND.

THE TOTAL STREAMFLOW SHALL BE BYPASSED WHENEVER IT IS LESS THAN THE DESIGNATED AMOUNT FOR THAT PERIOD. (0140060)

P17685

5-17-85 ownership chgd to Estate of Madame Helene
de Pens

14. NO WATER SHALL BE DIVERTED UNDER THIS PERMIT UNTIL PERMITTEE HAS INSTALLED A DEVICE, SATISFACTORY TO THE STATE WATER RESOURCES CONTROL BOARD, WHICH IS CAPABLE OF MEASURING THE FLOWS REQUIRED BY THE CONDITIONS OF THIS PERMIT. SAID MEASURING DEVICE SHALL BE PROPERLY MAINTAINED. (0060062)

15. IN ACCORDANCE WITH SECTION 1603 AND/OR SECTION 6100 OF THE FISH AND GAME CODE, NO WATER SHALL BE DIVERTED UNDER THIS PERMIT UNTIL THE DEPARTMENT OF FISH AND GAME HAS DETERMINED THAT MEASURES NECESSARY TO PROTECT FISHLIFE HAVE BEEN INCORPORATED INTO THE PLANS AND CONSTRUCTION OF SUCH DIVERSION. THE CONSTRUCTION, OPERATION, OR MAINTENANCE COSTS OF ANY FACILITY REQUIRED PURSUANT TO THIS PROVISION SHALL BE BORNE BY THE PERMITTEE. (0000063)

16. NO DIVERSION IS ALLOWED AFTER MARCH 15 OF EACH YEAR EXCEPT TO REPLENISH WATER STORED PRIOR TO MARCH 15. SUCH DIVERSION AFTER MARCH 15 IS CONTINGENT UPON CONTINUING PARTICIPATION BY PERMITTEE IN A WATER DISTRIBUTION PROGRAM APPROVED BY THE STATE WATER RESOURCES CONTROL BOARD. (0000999)

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Dated: AUGUST 29 1979

STATE WATER RESOURCES CONTROL BOARD



CHIEF, DIVISION OF WATER RIGHTS